

BOARD OF COUNTY COMMISSIONERS
Agenda Item Summary

Meeting Date June 18, 2003

Division **County Attorney**

AGENDA ITEM WORDING

Public hearing of an ordinance amending Sec. 6-90, MCC, *Powers and Duties* of the Contractors Examining Board, in order to enhance fines for aiding and abetting unlicensed activities and amending the assessment of administrative fees.

ITEM BACKGROUND

This clarifies authority of CEB to fine property owners and locally licensed contractors for aiding and abetting unlicensed work. It also allows high fines for repeat violations to act as a deterrent. Many repeat violators have exhibited an attitude that since consequences are negligible, there is no incentive to abide by the law.

PREVIOUS RELEVANT BOCC ACTION

See above.

CONTRACT/AGREEMENT CHANGES

N/A

STAFF RECOMMENDATIONS

Approval.

TOTAL COST
COST TO COUNTY

BUDGETED Yes No
SOURCE OF FUNDS

APPROVED BY: County Attorney ☒ OMB/Purchasing ☐ Risk Management ☐

DIVISION DIRECTOR APPROVAL:


J. R. COLLINS

DOCUMENTATION: Included ☐ To Follow ☐ Not Required ☐

AGENDA ITEM # _____

✓

ORDINANCE NO. - 2003

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, AMENDING SEC. 6-90, MONROE COUNTY CODE, *POWERS AND DUTIES*, TO PROVIDE FOR THE IMPOSITION OF ENHANCED FINES FOR AIDING AND ABETTING UNLICENSED ACTIVITIES, AMENDING THE ASSESSMENT OF ADMINISTRATIVE FEES AND RENUMBERING OF SUBSECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HERewith; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Contractors Examining Board for Monroe County has observed that there are numerous violations ongoing and being repeated of aiding and abetting unlicensed activities; and

WHEREAS, it is desired to enhance the penalties for such activities to deter construction by unlicensed contractors, unlicensed contractors who are not appropriately insured and may be performing unpermitted and unsafe work; and

WHEREAS, it is necessary to clarify provisions regarding the imposition of administrative fines; now, therefore

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. Section 6-90(b)(2)(g), *Fine Schedule*, is hereby renumbered to 6-90(c) and amended as follows:

6-90(c) The applicable civil penalty if the person elects not to contest the citation, which penalty shall be pursuant to the following schedules:

Fine Schedule:

	<i>First Violation</i>	<i>Second (Repeat) Violation</i>	<i>Third & Subsequent (Repeat) Violation</i>
Unlicensed Activity	\$500	\$1000 & Referral	\$1000 & Referral
<u>Aiding and Abetting</u>	<u>\$500</u>	<u>\$1000</u>	<u>\$1000</u>
All Other Violations	\$150	\$250	\$500

Repeat violations of unlicensed activity shall be referred to the state's attorney for criminal prosecution. All ~~additional-repeat~~ violations subsequent to the third violation shall be heard by the Contractors Examining Board under the disciplinary hearing provisions of this article. A repeat violation is any violation on which a fine has been issued or disciplinary action has been taken where the ~~same-contractor~~ person had

previously had disciplinary action taken against him or received a letter of reprimand in a prior case; and said definition is to apply (i) regardless of the chronological relationship of the acts underlying the various disciplinary actions, and (ii) regardless of whether the violations in the present and prior disciplinary actions are of the same or different provisions of this chapter.

The fine shall be paid to the clerk for the county commission. An administrative fee for costs incurred shall may be assessed in the amount of the greater of ten (10) percent of the fine or one hundred dollars (\$100.00). Monies collected pursuant to this section shall be used to support administrative costs and future enforcement activities against unlicensed contractors.

Section 2. Section 6-90(b)(6), is hereby amended as follows:

6-90(e) The Contractors Examining Board may impose an administrative fine, pursuant to the provisions of Sec. 6-68(d)(5) or this section for any violations of this chapter by the Contractors Examining Board and in the amounts stated in the Fine Schedule in this section ~~for the acts prohibited in paragraph (1) and (2)~~ upon a finding of violation when a citation is contested. Pursuant to this paragraph, the board shall conduct a probable cause hearing as to the alleged violation. Upon a finding that probable cause to believe such violation has occurred, the board shall deny the appeal and impose a civil penalty in an amount no less than one hundred dollars (\$100.00) and no more than the amount of fine possible under this chapter ~~designated in the above schedule~~ and may assess costs of the proceedings, including but not limited to costs of personnel, equipment and supplies necessary to process the appeal, not to exceed five hundred dollars (\$500.00) in addition to the civil penalty imposed pursuant to paragraph ~~(4)~~g. (c) of this section or section 6-68(5) or the reduced amount pursuant to this paragraph, if the board has found mitigating circumstances exist.

Section 3. Additional renumbering of Section 6-90 shall be as follows:

Sec. 6-90(b)(5) shall be 6-90(d)
Sec. 6-90(b)(6) shall be 6-90(e)
Sec. 6-90(b)(7) shall be 6-90(f)
Sec. 6-90(b)(8) shall be 6-90(g)
Sec. 6-90(b)(9) shall be 6-90(h)
Sec. 6-90(b)(10) shall be 6-90(i)

Section 4. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 5. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 6. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 7. This ordinance shall take effect immediately upon receipt of official notice from the Office of the Secretary of State of the State of Florida that this ordinance has been filed with said Office.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the _____ day of _____, 2003

Mayor Spehar
Mayor Pro Tem Nelson
Commissioner McCoy
Commissioner Neugent
Commissioner Rice

(SEAL)

Attest: DANNY L.KOLHAGE, Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Deputy Clerk

By _____
Mayor/Chairperson

JdordCEBpower

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY Suzanne A. Hutton
SUZANNE A. HUTTON
DATE 5/1/03